

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION
In Admiralty

**TROY D. DWYER, derivatively on
Behalf of Quinby Allie, LLC and
Bella Sky, LLC,**

and

Civil No: 4:21-cv-37

TROY D. DWYER, individually,

Plaintiffs,

v.

**L.D. AMORY AND COMPANY,
INCORPORATED, et. al.**

JOINT MOTION TO EXTEND EXPERT AND DISCOVERY DEADLINES

NOW COME the Parties, by and through their undersigned counsel, and move this Honorable Court to extend the expert disclosure and discovery cutoffs, with the pre-trial deadlines and trial date set for November 7, 2023 to remain as scheduled. The Parties state the following as grounds for this Motion:

1. On December 16, 2022, this Honorable Court issued the revised Scheduling Order, including the following outstanding deadlines (ECF No. 77):
 - a. Expert disclosures outlined in Rule 26(a)(2)(B) moved to **April 10, 2023**.
 - b. Rule 702, 703 or 705 disclosures intended solely to respond to, contradict or rebut evidence made on **May 8, 2023**.
 - c. Any rebuttal disclosures by a party bearing the initial burden of proof shall be made on **May 22, 2023**.
 - d. Discovery, except as to expert witnesses, shall be completed by all parties by **May 15, 2023**.

- e. All expert discovery concluded on or before **June 30, 2023**.
- f. All dispositive motions, including summary judgment motions in this action must be filed no later than **July 14, 2023**.
- g. Responses to summary judgment motions are due on **August 9, 2023** and replies due on **August 18, 2023**.
- h. All Rule 26(a)(3) Disclosures (witness lists), proposed exhibit lists and motions in limine must be exchanged on or before **September 28, 2023**.
- i. All objections and responses to trial documents no later than **October 12, 2023**.
- j. A Final Pretrial Conference on **October 19, 2023**.
- k. Trial Exhibits and voir dire due to Clerk and opposing party on or before **October 27, 2023**.
- l. Trial to commence on **November 7, 2023**.

2. The Parties have exchanged Initial Rule 26 Disclosures and the Plaintiffs have produced their expert designations in accordance with this Honorable Court's Scheduling Order. The Plaintiffs have also exchanged written discovery responses, have subpoenaed documents from third-party witnesses, and noticed multiple depositions to take place next month.

3. On February 24, 2023, the Parties attended a Settlement Conference before Honorable Robert J. Krask. Since then, the Parties have been diligently continuing settlement negotiations and initially remained hopeful that this matter could resolve in a settlement. The Parties appear to be at an impasse presently but are nevertheless continuing negotiations.

4. Discovery responses from Defendant, Meade Amory, to the Plaintiffs' discovery demands have been delayed, with supplemental responses just received this week and additional

supplemental responses reportedly forthcoming. This delayed production, as well as defense counsel efforts in locating electronic versions of various files as requested by Plaintiffs' expert, has impacted the Plaintiffs' expert's ability to produce his expert disclosure report by April 10, 2023. Plaintiffs' expert is also delayed due scheduling conflicts related to the approaching tax filing deadline.

5. The Parties respectfully pray that this Honorable Court extend the expert discovery and fact discovery deadlines and set a revised Scheduling Order with the following cutoffs:

- a. Expert disclosures outlined in Rule 26(a)(2)(B) moved to **May 19, 2023**.
- b. Rule 702, 703 or 705 disclosures intended solely to respond to, contradict or rebut evidence made on **June 9, 2023**.
- c. Any rebuttal disclosures by a party bearing the initial burden of proof shall be made on **June 30, 2023**.
- d. Discovery, except as to expert witnesses, shall be completed by all parties by **June 15, 2023**.
- e. All expert discovery concluded on or before **July 21, 2023**.
- f. All dispositive motions, including summary judgment motions in this action must be filed no later than **July 31, 2023**.
- g. Responses to summary judgment motions are due on **August 21, 2023** and replies due on **August 28, 2023**.

6. All other deadlines currently set by this Honorable Court, including the November 7, 2023 trial date to remain as currently scheduled.

7. A proposed Order including the above revised cutoffs as well as the existing deadlines not to be changed is attached hereto.

WHEREFORE, the Parties respectfully pray that this Honorable Court extend the disclosures and discovery cutoffs as stated above and issue the attached proposed Scheduling Order.

Respectfully submitted,

TROY D. DWYER, derivatively on behalf of Bella Sky, LLC and Quinby Allie, LLC, and Individually,

By: /s/ Julia A. Rust
Of Counsel

Julia A. Rust, Esq. (VSB No.: 87270)
PIERCE MCCOY, PLLC
101 West Main Street, Suite 101
Norfolk, Virginia 23510
Telephone: (757) 216-0226
Facsimile: (757) 257-0387
julia@piercemccoy.com

and

By: /s/ Kirby L. Aarsheim
Of Counsel, *Pro Hac Vice*

Kirby L. Aarsheim
BBO No.: 678774
FARRELL SMITH O'CONNELL
AARSHEIM APRANS LLP
27 Congress Street, Suite 109
Salem, MA 01970
Telephone: (978) 744-8918
Facsimile: (978) 666-0383
e-mail: kaarsheim@fsofirm.com

Counsel for Troy D. Dwyer, derivatively on behalf of Bella Sky, LLC and Quinby Allie, LLC, and Individually

AND

/s/ James L. Chapman, IV

James L. Chapman, IV, Esq.
K. Barrett Luxhoj, Esq.
Crenshaw Ware & Martin, PLC
150 West Main Street, Suite 1923
Norfolk, VA 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735
jchapman@cwm-law.com
*Counsel for L.D. Amory and Company, Inc.
and Quinby J. Amory*

AND

/s/ Mary Elisa Reeves

Mary Elisa Reeves (admitted *pro hac vice*)
Reeves McEwing LLP
1004 S. Front Street
Philadelphia, PA 19147
Telephone: (267) 324-3773
Facsimile: (267) 519-9463
reeves@lawofsea.com
*Co-Counsel for L.D. Amory and Co., Inc.
and Quinby J. Amory*

AND

/s/ Nicholas R. Hobbs

Nicholas R. Hobbs, Esq.
Michael B. Ware, Esq.
Schempf & Ware, PLLC
4000 George Washington Memorial Hwy
Yorktown, VA 23692
Telephone: (757) 240-4000
Facsimile: (757) 240-4001
nhobbs@4000law.com
mware@4000law.com
Counsel for C. Meade Amory